

REMARKS

Applicant has carefully studied the outstanding Office Action in the present application. The present response is intended to be fully responsive to all points of rejection raised by the Examiner and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of the application are respectfully requested.

Claims 23, 26-27, 43, 56-58, 65, 70, 74, 76, 79, 84 and 91 stand rejected under 35 USC 112, first paragraph, as failing to comply with the enablement requirement. Claims 24, 44-45, 64, 66-69, 71-73, 75, 77-78, 80-83, 85-90 and 92-93 stand rejected under 35 U.S.C. 102(b) as being anticipated by Hirshberg (US 5,289,369). Hirshberg describes a car-rental system which monitors various vehicle parameters and the vehicle location and transmits this information to a central location. Hirshberg does not show or suggest sensing the time during which a vehicle is being operated, rather Hirshberg senses location of the vehicle and service requirements of the vehicle.

Applicants express their appreciation to Examiner Romain Jeanty and SPE Tariq Hafiz for the courtesy of an interview which was granted to applicants' representative, Sanford T. Colb (Reg. No. 26,856). The interview was held at the USPTO on February 28, 2005. The substance of the interview is set forth in the Interview Summary.

In the interview, the 35 USC 112 rejection was discussed and claims 24, 45, 68 and 71-73 were discussed vis-à-vis the prior art of Hirshberg. The Interview Summary Record states, in relevant part, "Applicant pointed out that the 35 USC 112, first paragraph rejection was not clear. The Examiner agrees and it will be withdrawn. The prior art rejection was discussed and the applicant's representative pointed out that the prior art does not teach a 'sensor that automatically senses time during which the vehicle is operated' as well as the dependent claims 45, 68 and 71-73. The Examiner requests that the applicant respond to the pending office action, and upon the applicant's response the Examiner will evaluate the reference and substance of this interview and consult his SPE before the next office action."

As discussed in the interview, applicant respectfully submits that independent claims 23 and 56 and dependent claims 26-27, 43, 57-58, 65, 70, 74, 76, 79, 84 and 91 are fully supported in the specification on page 23, line 20 – page 26, line 6 with reference to Figs. 7A-7C, inter alia. Applicant thanks the Examiner for withdrawing the 35 USC 112 rejection, as agreed upon at the interview.

Claims 23-24, 26-27, 43-45, 56-58 and 64-93 are currently pending in the application. Applicant respectfully submits that all of the pending claims are patentable over Hirshberg for the reasons set forth hereinbelow.

As discussed in the interview, applicant respectfully submits that Hirshberg does not teach a sensor automatically sensing the time during which the vehicle is being operated and providing a billing data output in respect of a vehicle-related service which is dependent on the time **during which the vehicle is being operated**, as recited in independent claims 23, 24, 56, 64, 82 and 83.

Claims 23 and 56 recite “automatically sensing the time during which said vehicle is being operated” and “providing a billing data output ... dependent on the time during which the vehicle is being operated and is not dependent on any other input received from a vehicle-mounted sensor.” Hirshberg does not show or suggest providing a billing data output which is dependent on the time during which the vehicle is being operated, as recited in claims 23 and 56. Applicant respectfully submits that claims 23 and 56 are thus patentable over Hirshberg.

Claims 24 and 82 recite “automatically sensing only the time during which said vehicle is being operated.” As stated hereinabove, Hirshberg describes a car-rental system which monitors various vehicle parameters and the vehicle location and transmits this information to a central location. Hirshberg does not show or suggest sensing the time during which the vehicle is being operated, rather Hirshberg senses location of the vehicle and service requirements of the vehicle. Additionally, claims 24 and 82 recite that the billing data output is dependent on the time during which the vehicle is being operated. Hirshberg does not show or suggest providing a billing data output which is dependent on the time during which the vehicle is being operated, as recited in claims 24 and 82. Applicant respectfully submits that claims 24 and 82 are thus patentable over Hirshberg.

Claims 64 and 83 recite “automatically sensing the time during which

said vehicle is being operated.” As stated hereinabove, Hirshberg describes a car-rental system which monitors various vehicle parameters and the vehicle location and transmits this information to a central location. Hirshberg does not show or suggest sensing the time during which a vehicle is being operated, rather Hirshberg senses location of the vehicle and service requirements of the vehicle. Claims 64 and 83 also recite “providing a billing data output in respect of a vehicle-related service which is dependent on the time during which said vehicle is being operated.” Hirshberg does not show or suggest providing a billing data output which is dependent on the time during which the vehicle is being operated, as recited in claims 64 and 83. Applicant respectfully submits that claims 64 and 83 are thus patentable over Hirshberg.

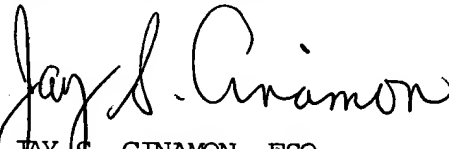
Applicant respectfully submits that independent claims 23, 24, 56, 64, 82 and 83 are thus patentable. Dependent claims 26-27, 43-45, 57-58, 65-81 and 84-93 each depend directly or ultimately from one of these independent claims and are therefore deemed patentable.

Applicant reserves the right to pursue the claims as originally filed in the context of a continuation application.

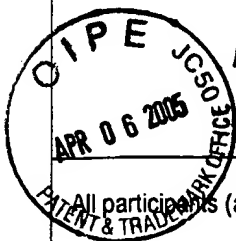
Applicant has carefully studied the remaining prior art of record herein and concludes that the invention as described and claimed in the present application is neither shown in nor suggested by the cited art.

In view of the foregoing, all of the claims are deemed to be allowable. Favorable reconsideration and allowance of the application are respectfully requested.

Respectfully submitted,


JAY S. CINAMON, ESQ.
Attorney for Applicants
Reg. No. 24,156

ABELMAN, FRAYNE & SCHWAB
150 East 42nd Street
New York, New York 10017
(212) 949-9022
(212) 949-9190



Interview Summary

Application No.	Applicant(s)	
09/731,643	DAR ET AL.	
Examiner	Art Unit	
Romain Jeanty	3623	

All participants (applicant, applicant's representative, PTO personnel):

- (1) Romain Jeanty. (3) Sanford T. Colb.
(2) Tariq Hafiz. (4) _____

Date of Interview: 28 February 2005.

Type: a) ☐ Telephonic b) ☐ Video Conference
c) ☒ Personal [copy given to: 1) ☐ applicant 2) ☒ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.
If Yes, brief description: _____

Claim(s) discussed: 1,45,68 and 71-73.

Identification of prior art discussed: Hirshberg (U.S. Patent No. 5,289,369).


Agreement with respect to the claims f) ☐ was reached. g) ☐ was not reached. h) ☒ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.


Examiner's signature, if required

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Applicant pointed that 35 USC 112, first rejection was not clear. The examiner agrees and it will be withdrawn. The prior art rejection was discussed and the applicant's representative pointed out that the prior does not teach "sensor that automatically senses time during which the vehicle is operated" as well as the dependent claims 45, 68, 71 -73. The examiner requests that the applicant respond to the pending office action, and upon the applicant's response the examiner will evaluate the reference and substance of this interview and consult his SPE before the next office action.